

STATE OF NEW MEXICO
COUNTY OF CHAVES
FIFTH JUDICIAL DISTRICT
NO: D-504-CV-2014-00513

RACHEL SMITH, as next
friend and Mother of
SEBASTION TOWLER, ETHAN
TOWLER, and JESSE
TOWLER, and CHARLIE
NELMS, as next friend
and Mother of NOAH
TOWLER-NELMS and
SCHERRIE TOWLER,
individually, and as
Personal Representative
of the Estate of CODY
TOWLER, Deceased,

Plaintiffs,

-vs-

CITY OF ROSWELL, A NEW
MEXICO MUNICIPALITY,
PHILLIP SMITH, JONATHON
KELTON, JORGE
ARROYO-JAIME, AND DYLAN
THOMAS, INDIVIDUALLY AND
AS AGENTS AND EMPLOYEES
OF THE CITY OF ROSWELL,

Defendants.

DEPOSITION OF JORGE ARROYO-JAIME

SEPTEMBER 18, 2015
8:30 A.M.
400 North Pennsylvania
ROSWELL, NEW MEXICO

PURSUANT TO THE NEW MEXICO RULES OF CIVIL
PROCEDURE, this deposition was:

TAKEN BY: JOEL T. NEWTON, ESQ.
ATTORNEY FOR PLAINTIFFS
REPORTED BY: LORENA H. ROMERO
CCR #184
Romero Reporting, Inc.
512 N. Lea
Roswell, New Mexico 88201

Romero Reporting
575-625-1710

1 A. Correct.

2 Q. All right. How close were you when you
3 deployed your Taser?

4 A. Same, about 10, 15 feet.

5 Q. All right. But you were able to see his
6 face, correct?

7 A. Somewhat. The side of his face.

8 Q. You were facing him, correct?

9 MR. SHANOR: Object to form.

10 A. In the front? I was in front.

11 Q. You were in front of him, correct?

12 A. Correct.

13 Q. So as you walked up, you did not go around
14 behind him, correct?

15 A. Correct.

16 Q. And then when you got close enough and you
17 waited 30 seconds to a minute, what did you do?

18 A. I deployed my department-issue Taser.

19 Q. Why did you deploy your Taser?

20 A. Based on what was happening, Officer --
21 clearly see that Officer Thomas' Taser was not
22 working well, not working, not having an effect on
23 Mr. Towler.

24 Q. Now you waited 30 seconds to a minute?

25 A. Correct.

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1 anything that you knew, correct?

2 A. Correct.

3 MR. SHANOR: Same objection.

4 Q. Thank you. All right. Now you've cuffed
5 him up. What happens next?

6 A. We are able to handcuff his arms. He's
7 still moving, still fighting. He's still moving to
8 his -- from side to side. So I move in his legs so
9 I made the decision to get on his legs, hold him
10 down. My hands are almost to his buttocks holding
11 him down. And when I'm on there, I feel his -- his
12 feet kicking my back. So he's obviously moving his
13 legs. Officer McKinnon is there. I asked him to
14 retrieve some leg shackles and he does. Leg
15 shackles were placed on his legs or his feet. And
16 soon after that, he calmed down, he came down.

17 Q. Okay. All right. Several of the other
18 officers say after that he was laying alone for a
19 minute or so, do you recall that?

20 MR. SHANOR: Object to form.

21 A. I do.

22 Q. All right. So as that relates to him
23 laying alone, what do you recall?

24 A. Well, let me back up a little bit. His
25 leg shackles were on him.

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1 Q. Well, you got on his buttocks, Kelton was
2 really basically on his back and you guys were
3 holding him down, correct?

4 A. Yeah.

5 Q. And he was resisting. How long did you
6 stay there before you believed we've got him in
7 custody?

8 A. Once the shackles went on, like I said, he
9 immediately came down and that's when I got off.

10 Q. Okay. Once the shackles -- are you
11 talking the leg shackles or the arms?

12 A. Shackles, the legs.

13 Q. All right. Now I'm going to have you go
14 to another exhibit here just to show you some so we
15 can kind of identify. Go to Exhibit 5, if you will.

16 A. Okay.

17 Q. I've written some numbers beside the
18 entries there, this event log. Do you see Entry
19 No. 13, five Taser deployments and several baton
20 strikes, subject 10-15?

21 A. Yes.

22 Q. That's at 2:12:37, right?

23 A. Yes.

24 Q. That's 2:00 a.m. and 12 minutes and 37
25 seconds after 2:00 a.m., correct?

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